



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Richard F Lemuth  
Shell Oil Company  
PO Box 2463  
Houston, TX 77252-2463

**COPY MAILED**

**JAN 20 2006**

**OFFICE OF PETITIONS**

In re Application of Willink et al.	:	
Application No. 09/869,632	:	Decision on Petition
Filing Date: June 28, 2001	:	
Attorney Docket No. TH-1456 (US)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 2, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on September 2, 2005.

Petitioner has filed a Request for Continued Examination under §1.114 (and RCE Fee) and submission (an amendment) as the proposed reply. However the required reply for the petition to revive is the reply sufficient to have avoided abandonment had such reply been timely filed. In an application becomes abandoned for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable."

35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent."

Both 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. A reply that serves to continue prosecution in an application, such as an RCE, is not sufficient to satisfy either §151 or 41(a)(7). The Commissioner does not have the authority to waive these statutory requirements.

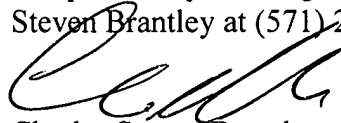
In view of the authorization contained in the petition to change any additional fees due, the issue fee balance of \$30 will be charged to Deposit Account No. 19-1800.

Petitioner is advised that the issue fee in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that any payments previously made for the issue fee be applied towards the issue fee required by the new Notice of Allowance. In order to have the issue fee applied towards any fees required by a future Notice of Allowance, written instructions including such a request must be filed in response to the new Notice of Allowance.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3672 will be informed the application has been revived so that the examiner may further review the application in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions